

Serial No. 09/650,118

Attorney Docket No. PF02054NA

REMARKS

Claims 1 through 16 are pending in this application. Claims 17 and 18 are hereby added and, thus, claims 1 through 18 remain. In addition, claims 6, 9, 14 and 15 are hereby amended.

Claim 9 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite, and claim 14 is objected to because of a particular informality. Claims 9 and 14 are hereby amended in accordance with the suggested language of the above Office Action. Therefore, reconsideration and withdrawal of the rejection of claim 9 and objection to claim 14 are respectfully requested.

Claims 1 through 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,408,182 to Davidson, et al. ("Davidson, et al. patent") in view of U.S. Patent No. 6,192,232 to Iseyama ("Iseyama patent").

Claim 1 provides a plurality of communication devices that include at least one first communication device subscribed to a first class of service and at least one second communication device subscribed to a second class of service. Page 4, lines 5 through 7, of the above Office Action states that the Davidson, et al. patent fails to teach a plurality of communication devices that include at least one first communication device subscribed to a first class of service and at least one second communication device subscribed to a second class of service. The above Office Action also states, at page 4, lines 8 through 11, that the Iseyama patent teaches a plurality of communication devices that include at least one first communication

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device subscribed to a first class of service and at least one second communication device subscribed to a second class of service.

Applicants respectfully disagree with the Examiner's interpretation of the Iseyama patent.

The Iseyama patent describes a mobile station that is handled based on the type of call, i.e., emergency call, placed by the mobile station; not the subscription class as required by claim 1.

For example, col. 3, lines 32 through 39, of the Iseyama patent indicates that the base stations use knowledge about the call type, not about the mobile station. In fact, col. 6 lines 35 through 61, indicates that there are two types of emergency calls. The Iseyama patent does not describe or suggest different classes of mobile stations. Also, the Iseyama patent consistently describes a call requested by a single mobile station and, although other mobile stations are referenced (at col. 5, line 15; col. 8, line 42; and co. 13, line 52), there is not mention of any type of mobile station classes. Thus, in accordance with the Iseyama patent, all mobile stations would be treated equally if they placed the same type of call. Therefore, claim 1 distinguishes patentably from the Davidson, et al. patent, the Iseyama patent and the combination of these patents

Claim 10 provides serving some but not all of the plurality of communication devices using a backup system component in accordance with a class of service associated with a communication device, when the main system component goes out of service. In contrast, the Davidson, et al. patent provides failover operation between mobile switching centers ("MSCs") for all base station controllers, and the Iseyama patent does not describe or suggest any type of backup system, let alone a backup system that serves some but not all communication devices.

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Therefore, claim 10 distinguishes patentably from the Davidson, et al. patent, the Iseyama patent and the combination of these patents.

Claims 2 through 9 and 11 through 16 depend from and include all limitations of independent claims 1 and 10. Therefore claims 2 through 9 and 11 through 16 distinguish patentably from the Davidson, et al. patent, the Iseyama patent and the combination of these patents for the reasons stated above for claims 1 and 10.

In addition, claims 6 through 8, 15 and 16 further distinguish from the Davidson, et al. patent and the Iseyama patent as discussed below.

In rejecting claims 6 and 15, the Examiner cites col. 3, lines 20 through 34; col. 4, lines 34 through 50; and col. 5, lines 24 through 53, of the Davidson, et al. patent. Claims 6 and 15 as amended provide the backup system component has a lower capacity than the main system component for substantially same coverage area. In contrast, the Davidson, et al. patent implies, at col. 5, lines 24 through 53, that the back up MSC may have lower capacity because it does not cover all cells, and the Iseyama patent does not describe any type of system having lower capacity. Support for the above added recitation to claim 6 is provided in FIG. 1 of the drawings as well as page 7, lines 20 and 21, and page 10, lines 4 through 6, of the specification. Therefore, amended claims 6 and 15 further distinguish patentably from the Davidson, et al. patent, the Iseyama patent and the combination of these patents.

In rejecting claims 7 and 16, the Examiner cites col. 2, lines 19 through 35, and col. 4, lines 34 through 65, of the Davidson, et al. patent. It appears that the Examiner has confused

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"reliability" with the actual occurrence of a failure. "Reliability" refers to the probability of failure at a main or backup system, whereas the Davidson, et al. patent describes (at col. 2, lines 19 through 35) that the main component fails. The failure of a component does not indicate, one way or the other, whether the component has higher or lower reliability than its backup. The Davidson, et al. patent does not describe or suggest any type of relative reliabilities of the main and backup MSCs. Therefore, claims 7 and 16 further distinguish patentably from the Davidson, et al. patent, the Iseyama patent and the combination of these patents.

In rejecting claim 8, the Examiner cites col. 3, lines 20 through 67, and col. 4, lines 1 through 15, of the Davidson, et al. patent. Claim 8 provides information about the class of service for each communication device is stored in the system. In contrast, the Davidson, et al. patent does not describe or suggest any type of stored information about a class of service for each communication device. Therefore, claim 8 further distinguishes patentably from the Davidson, et al. patent, the Iseyama patent and the combination of these patents.

In view of the above, reconsideration and withdrawal of the 35 U.S.C. §103(a) rejection of claims 1 through 16 are respectfully requested.

New claims 17 and 18 are hereby added to more complete cover a certain aspect of Applicants' system and method. In particular, claims 17 and 18 provide that the communication devices are mobile communication devices. In contrast, the Davidson, et al. patent describes a system and method of providing failover operations for base station controllers ("BSCs"), not a backup system and method for mobile communication devices as required by claims 17 and 18. The Iseyama patent does not describe or suggest any type of backup system or method, let alone a

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backup system or method for mobile communication devices as required by claims 17 and 18.

Therefore, in addition to reasons stated above for claims 1 and 10, allowance of new claims 17 and 18 is believed to be further warranted.

CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. A Notice of Allowance is respectfully solicited. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,
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